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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,656	07/05/2001	Yasushi Takahashi	450100-4678.1	8641
20999	7590	06/30/2005	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			SAJOUS, WESNER	
			ART UNIT	PAPER NUMBER
			2676	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/899,656

Applicant(s)

TAKAHASHI ET AL.

Examiner

Sajous Wesner

Art Unit

2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/5/2001</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

Claims 1-17 are presented for examination.

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 6278493. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 8 (or claim 7 or 15) is somewhat a broader version of claim 1 and/or claim 3 of U.S. Patent No. 6278493.

It is noted that the patented claim 1 and/or claim 3 would be able to perform the functions of the claimed limitations of the present application, since the claimed limitations recited in the claimed invention of the present application are also recited into patented claim 1 and/or claim 3, including the separating step, sampling step, and the processing for implementing step. Furthermore, it should be noted that by identifying

key words of program descriptions, as called for in claim 1 or claim 3 of US Patent No. 6278493, a portion, section or a predetermined part of the program guide information is necessarily identified in the present invention, wherein the program descriptions correspond to the guide information. The omitted portions of the application's claim 8 with respect to claim 1 and/or claim 3 of U.S. Patent No. 6278493 are those that make the instant application and claim a somewhat broader representation of the claim 1 and/or 3 of U.S. Patent No. 6278493.

Note that the limitations of independent claims 1 and 7 are analogous to and are included in independent claim 8 of the instant application. Thus, claims 1 and 7 fall under the obviousness-type double patenting rejection as being unpatentable over claims 1 and/or claim 3 of U.S. Patent No. 6278493 for the reasons indicated above.

The dependent claims 2-6, 9-14 of the instant application are rejected for fully incorporating the errors of their respective base claims by dependency.

Claim 15 contains the limitations of claim 8; it is, therefore, rejected under the same rationale as claim 8.

3. Claims 16-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 6278493 in view of Goldstein (US 5410326).

Regarding claim 16, U.S. Patent No. 6278493 shows a receiver (e.g., the processor that comprises the separating means, the sampling means and the processing means, as claimed in the instant application. It is noted that the signal that

is processed by the processor (or receiver) in the U.S. Patent No. 6278493 already has the transmitted data including electronic program guide information having program descriptions and the inserted identification codes inserted therein. What is lacking in U.S. Patent No. 6278493 is the transmitting aspect of the claim that is associated with the broadcasting system.

Goldstein discloses a broadcasting system (e.g., items 6-9 of fig. 1, particularly item 9) that transmits and receives data. See abstract and col. 7, lines 66 to col. 8, lines 6 and lines 56-61. See also fig. 14.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention made to modify the features of the U.S. Patent No. 6278493 to include the transmitting and receiving aspect associated with a broadcasting system, in the same conventional manner as taught by Goldstein; in order to communicate data to the broadcasting system for further processing.

Claim 17 contains the limitations of claim 16; it is, therefore, rejected under the same rationale as claim 16.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

5. Claims 1-3, 6-10, 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Davis (US 5822123).

Considering claim 1, Davis discloses an information processor (see fig. 1, particularly items 16 and 27) for processing guide information (e.g., TV guide, item 61A of fig. 6 via item 11 of fig. 1) for giving guide on programs (see figs. 18-20), comprising inserting means (e.g., the combined functions of items 16 and 31 of fig. 1) for inserting identification codes (e.g., program's codes) identifying predetermined parts (e.g., ratings, category, title and channels) of said guide information into said guide information (e.g., the program signal received by the television receiver. See col. 26, lines 45-60).

Re claim 2, Davis discloses the guide information comprises a text (e.g., a title, see fig. 18, and col. 5, lines 36-38) and said inserting means inserts the identification codes identifying predetermined character parts (e.g., a list of program titles or channels) composing said text into said guide information. See col. 26, lines 34-56.

As per claim 3, Davis discloses a plurality of types of identification codes (e.g., a plurality of content-specific keys) are prepared and said inserting means (e.g., remote controller 40) inserts said identification codes the type (e.g., by depressing sports key 49) corresponding to the contents of said predetermined character parts into said guide information. See col. 31, lines 37-51. Note that since the plurality of content-specific keys are supplied with controller, it is inherent that these keys were prepared in advance.

As per claim 6, Davis discloses transmitting means (e.g., via items 16 and 11, fig. 1) for transmitting said guide information in which said identification codes have been inserted together with said program. See col. 26, lines 49-56.

Claim 7 contains features that are analogous to the limitations recited in claim 1. As a result, the limitations of claim 7 are therefore, rejected under the same rationale as claim 1.

Regarding claim 8, Davis discloses an information processor (see fig. 1, particularly, items 16 and 27) for processing transmitted data (e.g., data streams via item 11 of fig. 1), comprising, when said transmitted data contains guide information for giving guide on programs (see col. 9, lines 8-30) and identification codes (e.g., program's codes) for identifying predetermined parts (e.g., ratings, category, title and channels) of the guide information are inserted said guide information See col. 26, lines 45-60:

separating means (e.g., items 13 and 16, fig. 13) for separating said guide information from said transmitted data (note that when the transmitted data streams including the program guide is demodulated and is provided to microcontroller 16 that capture the program guide information and store it ROM 17 (see col. 9, lines 28-45), the guide information is thus separated from the transmitted other services in the data streams)). Further, Davis discloses sampling means (e.g., a lock program, by means of items 16 and 40 of fig. 1) for sampling said predetermined parts (titles, or channels or category listings) out of said guide information based on said identification codes inserted into said guide information (it is noted that once controller 16 is used to lock or lock-out a

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particular channel or program title or category from the program via an identifier code (see cols. 25-26, specifically col. 26, lines 34-56), the particular program channel or title or category, which constitute parts of the program guide, is sampled out of the program guide or among the program titles or channels or category listings because it will be restricted the user)); and processing means (16) for implementing predetermined processes based on the sampling result said sampling means. See col. 26, lines 34-60 and/or lines 5-60.

Re claim 9, Davis discloses the guide information comprises a text (e.g., a title, see fig. 18, and col. 5, lines 36-38) and said inserting means inserts the identification codes identifying predetermined character parts (e.g., a list of program titles or channels) composing said text into said guide information. See col. 26, lines 34-56.

As per claim 10, Davis discloses a plurality of types of identification codes (e.g., a plurality of content-specific keys) are prepared and said inserting means (e.g., remote controller 40) inserts said identification codes the type (e.g., by depressing sports key 49) corresponding to the contents of said predetermined character parts into said guide information. See col. 31, lines 37-51. Note that since the plurality of content-specific keys are supplied with controller, it is inherent that these keys were prepared in advance.

As per claim 13, Davis discloses processing means (e.g., controller 16) controls display of the predetermined part in displaying the guide information. See col. 25, lines 40-47.



As per claim 14, Davis discloses processing means (e.g., controller 16) retrieves the predetermined part or retrieves the guide information containing the predetermined part. See col. 25, lines 30-47.

Claim 15 contains features that are analogous to the limitations recited in claim 8. As a result, the limitations of claim 15 are, therefore, rejected under the same rationale as claim 8.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis (US 5822123) in view of Goldstein (US 5410326).

Regarding claim 16, Davis shows the receiver (see fig. 1, particularly the functions of items 12-13 and 16 that performs the separating means, the sampling means and the processing means, as claimed. See claim 8 above as rationale. It is further noted that the signal that is processed by the processor (12, 13, and 16) in Davis already has the transmitted data (via item 11) including electronic program guide information having program descriptions and the microcontroller in association with controller 40 perform the inserting of identification codes therein. See col. 9, lines 8-30, and col. 26, lines 45-60.

What is lacking by the Davis reference is the transmitting aspect of the claim that is associated with the broadcasting system.

Goldstein discloses a broadcasting system (e.g., items 6-9 of fig. 1, particularly TV receiver 9 in association with remote controller 5) that transmits and receives data. See abstract and col. 7, line 66 to col. 8, line 6 and lines 56-61. See also fig. 14.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention made to modify the features of Davis to include the transmitting and receiving aspect associated with a broadcasting system, in the same conventional manner as taught by Goldstein; in order to communicate data to the broadcasting system for further processing.

Claim 17 contains the limitations of claim 16; it is, therefore, rejected under the same rationale as claim 16.

### ***Claim Objections***

8. Claims 4-5, 11-14 are objected to because of the following informalities: In claims 4, 11, 13-14, the Applicant is required to replace "part" of the "predetermined ... part" with --parts--, so as to show sufficient antecedent basis for the limitations in the claims. Appropriate correction is required.

Claims 5 and 12 contain the error of claims 4 and 11, by dependence; they are objected to for the same reason.

***Allowable Subject Matter***

9. Claims 4-5, and 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, because the prior art fail to teach an information processor for processing program guide information comprises an identification code that includes identifiers identifying the position of the predetermined character part within said text and classification information for classifying the predetermined character part, wherein said classification information arranged in a hierarchical structure.

***Conclusion***

10. The prior art made of record and pertinent to this application are as recited in the PTO-892 form.

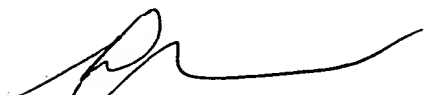
Matthews (US 6025837) discloses an electronic program guide with hyperlinks that enable a user to search program titles or text or key words within the program guide information. See col. 10, lines 50-60 and col. 12, lines 5-29.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajous Wesner whose telephone number is 571-272-7791. The examiner can normally be reached on Mondays thru Fridays between 11:00 AM and 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wesner Sajous -WS-



6/25/05